

HOUSE BILL NO. 149

INTRODUCED BY D. GALLIK

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE INTERSTATE INSURANCE PRODUCT REGULATION COMPACT AND AUTHORIZING THE STATE AUDITOR AND EX OFFICIO COMMISSIONER OF INSURANCE TO PARTICIPATE IN THE COMPACT UNDER WHICH PARTICIPATING STATES PROVIDE A COMMON FRAMEWORK FOR REGULATING DESIGNATED INSURANCE PRODUCTS; PROVIDING A WAIVER OF THE COMPACT TO UPHOLD THE RIGHT-TO-KNOW PROVISION OF THE MONTANA CONSTITUTION; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Compact adopted -- text. The Interstate Insurance Product Regulation Compact is enacted into law and entered into with all jurisdictions legally joining in the compact, in the form substantially as set forth below.

Article I. Purposes

Pursuant to terms and conditions of this compact, the state of Montana seeks to join with other states and establish the Interstate Insurance Product Regulation Compact. Through means of joint and cooperative action among the compacting states, the purposes of this compact are:

- (1) to promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products;
- (2) to develop uniform standards for insurance products covered under the compact;
- (3) to establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisement related to the products, submitted by insurers authorized to do business in one or more compacting states;
- (4) to give appropriate regulatory approval to those product filings and advertisement satisfying the applicable uniform standard;
- (5) to improve coordination of regulatory resources and expertise between state insurance departments

1 regarding the setting of uniform standards and review of insurance products covered under the compact;
2 (6) to create the interstate insurance product regulation commission; and
3 (7) to perform these and other related functions as may be consistent with the state regulation of the
4 business of insurance.

5 Article II. Definitions

6 For purposes of this compact, the following definitions apply:

7 (1) "Advertisement" means any material designed to create public interest in a product or induce the
8 public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy, as more
9 specifically defined in the rules and operating procedures of the commission.

10 (2) "Bylaws" mean those bylaws established by the commission for its governance or for directing or
11 controlling the commission's actions or conduct.

12 (3) "Compacting state" means a state that has enacted this compact legislation and that has not
13 withdrawn pursuant to Article XIV, subsection (1), or been terminated pursuant to Article XIV, subsection (2).

14 (4) "Commission" means the interstate insurance product regulation commission established by this
15 compact.

16 (5) "Commissioner" means the chief insurance regulatory official of a state, including but not limited to
17 commissioner, superintendent, director, or administrator.

18 (6) "Domiciliary state" means the state in which an insurer is incorporated or organized or, in the case
19 of an alien insurer, its state of entry.

20 (7) "Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of
21 insurance covered by this compact.

22 (8) "Member" means the person chosen by the compacting state as its representative to the commission
23 or the designee named by the representative to the commission.

24 (9) "Noncompacting state" means a state that is not at the time a compacting state.

25 (10) "Operating procedures" mean procedures promulgated by the commission implementing a rule, a
26 uniform standard, or a provision of this compact.

27 (11) "Product" means the form of a policy or contract, including any application, endorsement, or related
28 form that is attached to and made a part of the policy or contract, and any evidence of coverage or certificate,
29 for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an
30 insurer is authorized to issue.

(12) "Rule" means a statement of general or particular applicability and future effect promulgated by the commission, including a uniform standard developed pursuant to Article VII, designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the commission, which has the force of law in the compacting states.

(13) "State" means any state, district, or territory of the United States of America.

(14) "Third-party filer" means an entity that submits a product filing to the commission on behalf of an insurer.

(15) "Uniform standard" means a standard adopted by the commission for a product line, pursuant to Article VII, and includes all of the product requirements in aggregate, provided that each uniform standard must be construed, whether express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions in a product and the form of the product made available to the public may not be unfair, inequitable, or against public policy as determined by the commission.

Article III. Establishment of the Commission and Venue

(1) The compacting states create and establish a joint public agency known as the interstate insurance product regulation commission. Pursuant to Article IV, the commission has the power to develop uniform standards for product lines, receive and provide prompt review of products filed with the commission, and give approval to those product filings satisfying applicable uniform standards. However, it is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. Nothing in the compact prohibits any insurer from filing its product in any state in which the insurer is licensed to conduct the business of insurance, and any such filing is subject to the laws of the state where filed.

(2) The commission is a body corporate and politic and an instrumentality of the compacting states.

(3) The commission is solely responsible for its liabilities except as otherwise specifically provided in this compact.

(4) Venue is proper and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

Article IV. Powers of the Commission

The commission has the following powers:

(1) to promulgate rules, pursuant to Article VII, which have the force of law and are binding in the compacting states to the extent and in the manner provided in this compact;

(2) to exercise its rulemaking authority and establish reasonable uniform standards for products covered

1 under the compact and advertisement related to the products, which have the force of law and are binding in
2 the compacting states, but only for those products filed with the commission, provided that a compacting state
3 has the right to opt out of the uniform standard pursuant to Article VII, to the extent and in the manner provided
4 in this compact, and provided further that any uniform standard established by the commission for long-term care
5 insurance products may provide the same or greater protections for consumers as, but may not provide less
6 than, those protections set forth in the national association of insurance commissioners' Long-Term Care
7 Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The
8 commission shall consider whether any subsequent amendments to the national association of insurance
9 commissioners' Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted
10 by the national association of insurance commissioners require amending of the uniform standards established
11 by the commission for long-term care insurance products.

12 (3) to receive and review in an expeditious manner products filed with the commission and rate filings
13 for disability income and long-term care insurance products and to give approval of those products and rate
14 filings that satisfy the applicable uniform standard, where the approval has the force of law and is binding on the
15 compacting states to the extent and in the manner provided in the compact;

16 (4) to receive and review in an expeditious manner advertisement relating to long-term care insurance
17 products for which uniform standards have been adopted by the commission and to give approval to all
18 advertisement that satisfies the applicable uniform standard. For any product covered under this compact, other
19 than long-term care insurance products, the commission has the authority to require an insurer to submit all or
20 any part of its advertisement with respect to that product for review or approval prior to use, if the commission
21 determines that the nature of the product is such that an advertisement of the product could have the capacity
22 or tendency to mislead the public. The actions of the commission as provided in this section have the force of
23 law and are binding in the compacting states to the extent and in the manner provided in the compact.

24 (5) to exercise its rulemaking authority and designate products and advertisement that may be subject
25 to a self-certification process without the need for prior approval by the commission;

26 (6) to promulgate operating procedures, pursuant to Article VII, which are binding in the compacting
27 states to the extent and in the manner provided in this compact;

28 (7) to bring and prosecute legal proceedings or actions in its name as the commission, provided that the
29 standing of any state insurance department to sue or be sued under applicable law may not be affected;

30 (8) to issue subpoenas requiring the attendance and testimony of witnesses and the production of

1 evidence;

2 (9) to establish and maintain offices;

3 (10) to purchase and maintain insurance and bonds;

4 (11) to borrow, accept, or contract for services of personnel, including but not limited to employees of
5 a compacting state;

6 (12) to hire employees, professionals, or specialists and elect or appoint officers; to fix their
7 compensation, define their duties, give them appropriate authority to carry out the purposes of the compact, and
8 determine their qualifications; and to establish the commission's personnel policies and programs relating to,
9 among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

10 (13) to accept any and all appropriate donations and grants of money, equipment, supplies, materials,
11 and services and to receive, utilize, and dispose of the same, provided that at all times the commission shall
12 strive to avoid any appearance of impropriety;

13 (14) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or
14 use any property, real, personal, or mixed, provided that at all times the commission shall strive to avoid any
15 appearance of impropriety;

16 (15) to sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property,
17 real, personal, or mixed;

18 (16) to remit filing fees to compacting states as may be set forth in the bylaws, rules, or operating
19 procedures;

20 (17) to enforce compliance by compacting states with rules, uniform standards, operating procedures,
21 and bylaws;

22 (18) to provide for dispute resolution among compacting states;

23 (19) to advise compacting states on issues relating to insurers domiciled or doing business in
24 noncompacting jurisdictions, consistent with the purposes of this compact;

25 (20) to provide advice and training to those personnel in state insurance departments responsible for
26 product review and to be a resource for state insurance departments;

27 (21) to establish a budget and make expenditures;

28 (22) to borrow money;

29 (23) to appoint committees, including advisory committees comprising members, state insurance
30 regulators, state legislators or their representatives, insurance industry and consumer representatives, and other

1 interested persons as may be designated in the bylaws;
2 (24) to provide and receive information from, and to cooperate with, law enforcement agencies;
3 (25) to adopt and use a corporate seal; and
4 (26) to perform other functions as may be necessary or appropriate to achieve the purposes of this
5 compact consistent with the state regulation of the business of insurance.

6 Article V. Organization of the Commission

7 (1) Membership, voting, and bylaws.

8 (a) Each compacting state shall have and is limited to one member. Each member must be qualified to
9 serve in that capacity pursuant to applicable law of the compacting state. Any member may be removed or
10 suspended from office as provided by the law of the state from which the member is appointed. Any vacancy
11 occurring in the commission must be filled in accordance with the laws of the compacting state in which the
12 vacancy exists. Nothing in the compact may be construed to affect the manner in which a compacting state
13 determines the election or appointment and qualification of its own commissioner.

14 (b) Each member is entitled to one vote and shall have an opportunity to participate in the governance
15 of the commission in accordance with the bylaws. Notwithstanding any provision in the compact to the contrary,
16 an action of the commission with respect to the promulgation of a uniform standard may not be effective unless
17 two-thirds of the members vote in favor of the standard.

18 (c) The commission shall, by a majority of the members, prescribe bylaws to govern its conduct as may
19 be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including but
20 not limited to:

21 (i) establishing the fiscal year of the commission;

22 (ii) providing reasonable procedures for appointing and electing members, as well as holding meetings,
23 of the management committee;

24 (iii) providing reasonable standards and procedures:

25 (A) for the establishment and meetings of other committees; and

26 (B) governing any general or specific delegation of any authority or function of the commission;

27 (iv) providing reasonable procedures for calling and conducting meetings of the commission that consist
28 of a majority of commission members, ensuring reasonable advance notice of each meeting, and providing for
29 the right of citizens to attend each meeting with enumerated exceptions designed to protect the public's interest,
30 the privacy of individuals, and insurers' proprietary information, including trade secrets. The commission may

1 meet in camera only after a majority of the entire membership votes to close a meeting in whole or in part. As
2 soon as practicable, the commission must make public:

3 (A) a copy of the vote to close the meeting revealing the vote of each member with no proxy votes
4 allowed; and

5 (B) votes taken during the meeting.

6 (v) establishing the titles, duties, and authority and reasonable procedures for the election of the officers
7 of the commission;

8 (vi) providing reasonable standards and procedures for the establishment of the personnel policies and
9 programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state,
10 the bylaws must exclusively govern the personnel policies and programs of the commission.

11 (vii) promulgating a code of ethics to address permissible and prohibited activities of commission
12 members and employees; and

13 (viii) providing a mechanism for winding up the operations of the commission and the equitable
14 disposition of any surplus funds that may exist after the termination of the compact after the payment or
15 reserving of all of its debts and obligations.

16 (d) The commission shall publish its bylaws in a convenient form and file a copy of the bylaws and a
17 copy of any amendment to the bylaws with the appropriate agency or officer in each of the compacting states.

18 (2) Management committee, officers, and personnel.

19 (a) A management committee comprising no more than 14 members must be established as follows:

20 (i) one member from each of the six compacting states with the largest premium volume for individual
21 and group annuities, life, disability income, and long-term care insurance products, determined from the records
22 of the national association of insurance commissioners for the prior year;

23 (ii) four members from those compacting states with at least 2% of the market based on the premium
24 volume described in subsection (2)(a)(i), other than the six compacting states with the largest premium volume,
25 selected on a rotating basis as provided in the bylaws; and

26 (iii) four members from those compacting states with less than 2% of the market, based on the premium
27 volume described in subsection (2)(a)(i), with one selected from each of the four zone regions of the national
28 association of insurance commissioners as provided in the bylaws.

29 (b) The management committee has the authority and duties set forth in the bylaws, including but not
30 limited to:

1 (i) managing the affairs of the commission in a manner consistent with the bylaws and purposes of the
2 commission;

3 (ii) establishing and overseeing an organizational structure within, and appropriate procedures for, the
4 commission to provide for the creation of uniform standards and other rules, receipt and review of product filings,
5 administrative and technical support functions, review of decisions regarding the disapproval of a product filing,
6 and the review of elections made by a compacting state to opt out of a uniform standard, provided that a uniform
7 standard may not be submitted to the compacting states for adoption unless approved by two-thirds of the
8 members of the management committee;

9 (iii) overseeing the offices of the commission; and

10 (iv) planning, implementing, and coordinating communications and activities with other state, federal,
11 and local government organizations in order to advance the goals of the commission.

12 (c) The commission shall annually elect officers from the management committee, with each having the
13 authority and duties specified in the bylaws.

14 (d) The management committee may, subject to the approval of the commission, appoint or retain an
15 executive director for a period, upon the terms and conditions, and for the compensation that the commission
16 considers appropriate. The executive director shall serve as secretary to the commission but may not be a
17 member of the commission. The executive director shall hire and supervise other staff authorized by the
18 commission.

19 (3) Legislative and advisory committees.

20 (a) A legislative committee comprising state legislators or their designees must be established to monitor
21 the operations of and make recommendations to the commission, including the management committee,
22 provided that the manner of selection and term of any legislative committee member must be as set forth in the
23 bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget,
24 or other significant matter provided in the bylaws, the management committee shall consult with and report to
25 the legislative committee.

26 (b) The commission shall establish two advisory committees, one comprising consumer representatives
27 independent of the insurance industry and the other comprising insurance industry representatives.

28 (c) The commission may establish additional advisory committees as its bylaws may provide to carry
29 out its functions.

30 (4) Corporate records of the commission. The commission shall maintain its corporate books and

1 records in accordance with the bylaws.

2 (5) Qualified immunity, defense, and indemnification.

3 (a) The members, officers, executive director, employees, and representatives of the commission are
4 immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss
5 of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or
6 omission that occurred or that the person against whom the claim is made had a reasonable basis for believing
7 occurred within the scope of commission employment, duties, or responsibilities, provided that nothing in this
8 subsection (5)(a) may be construed to protect any person from suit or liability for any damage, loss, injury, or
9 liability caused by the intentional or willful and wanton misconduct of that person.

10 (b) The commission shall defend any member, officer, executive director, employee, or representative
11 of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or
12 omission that occurred within the scope of commission employment, duties, or responsibilities or that the person
13 against whom the claim is made had a reasonable basis for believing occurred within the scope of commission
14 employment, duties, or responsibilities, provided that nothing in the compact may be construed to prohibit that
15 person from retaining personal counsel, and provided further that the actual or alleged act, error, or omission
16 did not result from that person's intentional or willful and wanton misconduct.

17 (c) The commission shall indemnify and hold harmless any member, officer, executive director,
18 employee, or representative of the commission for the amount of any settlement or judgment obtained against
19 that person arising out of any actual or alleged act, error, or omission that occurred within the scope of
20 commission employment, duties, or responsibilities or that the person had a reasonable basis for believing
21 occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or
22 alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

23 Article VI. Meetings and Acts of the Commission

24 (1) The commission shall meet and take actions that are consistent with the provisions of this compact
25 and the bylaws.

26 (2) Each member of the commission has the right and power to cast a vote to which that compacting
27 state is entitled and to participate in the business and affairs of the commission. A member shall vote in person
28 or by other means that are provided in the bylaws. The bylaws may provide for members' participation in
29 meetings by telephone or other means of communication.

30 (3) The commission shall meet at least once during each calendar year. Additional meetings must be

1 held as set forth in the bylaws.

2 Article VII. Rules and Operating Procedures: Rulemaking Functions of the Commission and Opting Out of
3 Uniform Standards

4 (1) Rulemaking authority. The commission shall promulgate reasonable rules, including uniform
5 standards, and operating procedures to effectively and efficiently achieve the purposes of this compact.
6 Notwithstanding the foregoing, if the commission exercises its rulemaking authority in a manner that is beyond
7 the scope of the purposes of this compact or the powers granted by this compact, then the action by the
8 commission is invalid and has no force.

9 (2) Rulemaking procedure. Rules and operating procedures must be made pursuant to a rulemaking
10 process that conforms to the Model State Administrative Procedure Act of 1981, as amended, as may be
11 appropriate to the operations of the commission. Before the commission adopts a uniform standard, the
12 commission shall give written notice to the relevant state legislative committee or committees in each
13 compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission
14 in adopting a uniform standard shall consider fully all submitted materials and issue a concise explanation of
15 its decision.

16 (3) Effective date and opt out of a uniform standard. A uniform standard becomes effective 90 days after
17 its promulgation by the commission or at a later date determined by the commission, provided, however, that
18 a compacting state may opt out of a uniform standard as provided in this article. "Opt out" means any action by
19 a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and
20 operating procedures and amendments of the rules and operating procedures become effective as of the date
21 specified in each rule, operating procedure, or amendment.

22 (4) Opt out procedure.

23 (a) A compacting state may opt out of a uniform standard, either by legislation or regulation promulgated
24 by the insurance department under the compacting state's administrative procedure act. If a compacting state
25 elects to opt out of a uniform standard by regulation, the compacting state must:

26 (i) give written notice to the commission no later than 10 business days after the uniform standard is
27 promulgated or at the time the state becomes a compacting state; and

28 (ii) find that the uniform standard does not provide reasonable protections to the citizens of the state,
29 given the conditions in the state. The commissioner shall make specific findings of fact and conclusions of law,
30 based on a preponderance of the evidence, detailing the conditions in the state that warrant a departure from

1 the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the
2 state. The commissioner shall consider and balance the following factors and find that the conditions in the state
3 and needs of the citizens of the state outweigh:

4 (A) the intent of the legislature to participate in, and the benefits of, an interstate agreement to establish
5 national uniform consumer protections for the products subject to this compact; and

6 (B) the presumption that a uniform standard adopted by the commission provides reasonable protections
7 to consumers of the relevant product.

8 (b) Notwithstanding subsection (4)(a), a compacting state may, at the time of its enactment of this
9 compact, prospectively opt out of all uniform standards involving long-term care insurance products by expressly
10 providing for the opt out in the enacted compact, and the opt out may not be treated as a material variance in
11 the offer or acceptance of any state to participate in this compact. The opt out is effective at the time of
12 enactment of this compact by the compacting state and applies to all existing uniform standards involving
13 long-term care insurance products and those subsequently promulgated.

14 (5) Effect of opt out.

15 (a) If a compacting state elects to opt out of a uniform standard, the uniform standard remains
16 applicable in the compacting state electing to opt out until the opt out legislation is enacted into law or the
17 regulation opting out becomes effective.

18 (b) Once the opt out of a uniform standard by a compacting state becomes effective as provided under
19 the laws of that state, the uniform standard has no further force in that state unless the legislation or regulation
20 implementing the opt out is repealed or otherwise becomes ineffective under the laws of the state. If a
21 compacting state opts out of a uniform standard after the uniform standard has been made effective in that state,
22 the opt out has the same prospective effect as provided under Article XIV for withdrawals.

23 (6) Stay of uniform standard. If a compacting state has formally initiated the process of opting out of a
24 uniform standard by regulation, and while the regulatory opt out is pending, the compacting state may petition
25 the commission, at least 15 days before the effective date of the uniform standard, to stay the effectiveness of
26 the uniform standard in that state. The commission may grant a stay if it determines the regulatory opt out is
27 being pursued in a reasonable manner and there is a likelihood of success. If the commission grants or extends
28 a stay, the stay or extension may postpone the effective date by up to 90 days unless affirmatively extended by
29 the commission, provided that a stay may not be permitted to remain in effect for more than 1 year unless the
30 compacting state can show extraordinary circumstances that warrant a continuance of the stay, including but

1 not limited to the existence of a legal challenge that prevents the compacting state from opting out. The
2 commission may terminate a stay upon notice that the rulemaking process has been terminated.

3 (7) Not later than 30 days after a rule or operating procedure is promulgated, any person may file a
4 petition for judicial review of the rule or operating procedure, provided that the filing of a petition may not stay
5 or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the
6 petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission
7 consistent with applicable law and may not find the rule or operating procedure to be unlawful if the rule or
8 operating procedure represents a reasonable exercise of the commission's authority.

9 Article VIII. Commission Records and Enforcement

10 (1) The commission shall promulgate rules establishing conditions and procedures for public inspection
11 and copying of its information and official records, except information and records involving the privacy of
12 individuals and insurers' trade secrets. The commission may promulgate additional rules under which it may
13 make available to federal and state agencies, including law enforcement agencies, records and information
14 otherwise exempt from disclosure and may enter into agreements with those agencies to receive or exchange
15 information or records subject to nondisclosure and confidentiality provisions.

16 (2) Except as to privileged records, data, and information, the laws of any compacting state pertaining
17 to confidentiality or nondisclosure may not relieve any compacting state commissioner of the duty to disclose
18 any relevant records, data, or information to the commission, provided that disclosure to the commission may
19 not be considered to waive or otherwise affect any confidentiality requirement, and provided further that, except
20 as otherwise expressly provided in this compact, the commission may not be subject to the compacting state's
21 laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its
22 possession. Confidential information of the commission must remain confidential after the information is provided
23 to any commissioner.

24 (3) The commission shall monitor compacting states for compliance with duly adopted bylaws, rules,
25 including uniform standards, and operating procedures. The commission shall notify any noncomplying
26 compacting state in writing of its noncompliance with commission bylaws, rules, or operating procedures. If a
27 noncomplying compacting state fails to remedy its noncompliance within the time specified in the notice of
28 noncompliance, the compacting state is considered to be in default as set forth in Article XIV.

29 (4) The commissioner of any state in which an insurer is authorized to do business or is conducting the
30 business of insurance shall continue to exercise authority to oversee the market regulation of the activities of

1 the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance
2 with the compact is governed by the following provisions:

3 (a) With respect to the commissioner's market regulation of a product or advertisement that is approved
4 or certified to the commission, the content of the product or advertisement may not constitute a violation of the
5 provisions, standards, or requirements of the compact except upon a final order of the commission, issued at
6 the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the
7 commission.

8 (b) Before a commissioner may bring an action for violation of any provision, standard, or requirement
9 of the compact relating to the content of an advertisement not approved or certified to the commission, the
10 commission or an authorized commission officer or employee must authorize the action. However, authorization
11 pursuant to this subsection (4)(b) does not require notice to the insurer, opportunity for hearing, or disclosure
12 of requests for authorization or records of the commission's action on the requests.

13 Article IX. Dispute Resolution

14 The commission shall attempt, upon the request of a member, to resolve any disputes or other issues
15 that are subject to this compact and that may arise between two or more compacting states or between
16 compacting states and noncompacting states, and the commission shall promulgate an operating procedure
17 providing for resolution of the disputes.

18 Article X. Product Filing and Approval

19 (1) Insurers and third-party filers seeking to have a product approved by the commission shall file the
20 product with and pay applicable filing fees to the commission. Nothing in this compact may be construed to
21 restrict or otherwise prevent an insurer from filing its product with the insurance department in any state in which
22 the insurer is licensed to conduct the business of insurance, and the filing is subject to the laws of the states
23 where filed.

24 (2) The commission shall establish appropriate filing and review processes and procedures pursuant
25 to commission rules and operating procedures. Notwithstanding any provision in this compact to the contrary,
26 the commission shall promulgate rules to establish conditions and procedures under which the commission will
27 provide public access to product filing information. In establishing the rules, the commission shall consider the
28 interests of the public in having access to the information, as well as protection of personal medical and financial
29 information and trade secrets, that may be contained in a product filing or supporting information.

30 (3) Any product approved by the commission may be sold or otherwise issued in those compacting

1 states for which the insurer is legally authorized to do business.

2 Article XI. Review of Commission Decisions Regarding Filings

3 (1) Not later than 30 days after the commission has given notice of a disapproved product or
4 advertisement filed with the commission, the insurer or third-party filer whose filing was disapproved may appeal
5 the determination to a review panel appointed by the commission. The commission shall promulgate rules to
6 establish procedures for appointing a review panel and provide for notice and hearing. An allegation that the
7 commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously,
8 or in a manner that is an abuse of discretion or otherwise not in accordance with the law is subject to judicial
9 review in accordance with Article III, subsection (4).

10 (2) The commission shall have authority to monitor, review, and reconsider products and advertisement
11 subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform
12 standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and
13 hearing, subject to the appeal process in subsection (1) above.

14 Article XII. Finance

15 (1) The commission shall pay or provide for the payment of the reasonable expenses of its
16 establishment and organization. To fund the cost of its initial operations, the commission may accept
17 contributions and other forms of funding from the national association of insurance commissioners, compacting
18 states, and other sources. Contributions and other forms of funding from other sources must be of such a nature
19 that the independence of the commission concerning the performance of its duties may not be compromised.

20 (2) The commission shall collect a filing fee from each insurer and third-party filer filing a product with
21 the commission to cover the cost of the operations and activities of the commission and its staff in a total amount
22 sufficient to cover the commission's annual budget.

23 (3) The commission's budget for a fiscal year may not be approved until the budget has been subject
24 to notice and comment as set forth in Article VII.

25 (4) The commission is exempt from all taxation in and by the compacting states.

26 (5) The commission may not pledge the credit of any compacting state except by and with the
27 appropriate legal authority of that compacting state.

28 (6) The commission shall keep complete and accurate accounts of all its internal receipts, including
29 grants and donations, and disbursements of all funds under its control. The internal financial accounts of the
30 commission are subject to the accounting procedures established under the commission bylaws. The financial

1 accounts and reports, including the system of internal controls and procedures of the commission, must be
2 audited annually by an independent certified public accountant. Upon the determination of the commission, but
3 no less frequently than every 3 years, the review of the independent auditor must include a management and
4 performance audit of the commission. The commission shall make an annual report to the governor and
5 legislature of the compacting states, which must include a report of the independent audit. The commission's
6 internal accounts are not confidential and the materials may be shared with the commissioner of any compacting
7 state upon request. However, any work papers related to any internal or independent audit and any information
8 regarding the privacy of individuals and insurers' proprietary information, including trade secrets, must remain
9 confidential.

10 (7) No compacting state has any claim to or ownership of any property held by or vested in the
11 commission or to any commission funds held pursuant to the provisions of this compact.

12 Article XIII. Compacting States, Effective Date, and Amendment

13 (1) Any state is eligible to become a compacting state.

14 (2) The compact becomes effective and binding upon legislative enactment of the compact into law by
15 two compacting states; however, the commission becomes effective for purposes of adopting uniform standards
16 for, reviewing, and giving approval or disapproval of products filed with the commission that satisfy applicable
17 uniform standards only after 26 states are compacting states or, alternatively, by states representing greater than
18 40% of the premium volume for life insurance, annuity, disability income, and long-term care insurance products,
19 based on records of the national association of insurance commissioners for the prior year. Thereafter, the
20 compact becomes effective and binding as to any other compacting state upon enactment of the compact into
21 law by the state.

22 (3) Amendments to the compact may be proposed by the commission for enactment by the compacting
23 states. An amendment does not become effective and binding upon the commission and the compacting states
24 until all compacting states enact the amendment into law.

25 Article XIV. Withdrawal, Default, and Termination

26 (1) Withdrawal.

27 (a) Once effective, the compact continues in force and remains binding upon each compacting state,
28 provided that a compacting state may withdraw from the compact ("withdrawing state") by enacting a statute
29 specifically repealing the statute that enacted the compact into law.

30 (b) The effective date of withdrawal is the effective date of the repealing statute. The withdrawal may

1 not apply to any product filings approved or self-certified, or any advertisement of those products, on the date
2 the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing
3 state unless the withdrawing state rescinds the approval as provided in subsection (1)(e).

4 (c) The commissioner of the withdrawing state shall immediately notify the management committee in
5 writing upon the introduction of legislation repealing this compact in the withdrawing state.

6 (d) The commission shall notify the other compacting states of the introduction of the legislation within
7 10 days after its receipt of notice.

8 (e) The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the
9 effective date of withdrawal, including any obligations, the performance of which extend beyond the effective
10 date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual
11 agreement of the commission and the withdrawing state. The commission's approval of products and
12 advertisement prior to the effective date of withdrawal continues to be effective and must be given full force in
13 the withdrawing state unless formally rescinded by the withdrawing state in the same manner as provided by
14 the laws of the withdrawing state for the prospective disapproval of products or advertisement previously
15 approved under state law.

16 (f) Reinstatement following withdrawal of any compacting state shall occur upon the effective date of
17 the withdrawing state reenacting the compact.

18 (2) Default.

19 (a) If the commission determines that any compacting state has at any time defaulted ("defaulting state")
20 in the performance of any of its obligations or responsibilities under this compact, the bylaws, or duly
21 promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights,
22 privileges, and benefits conferred by this compact on the defaulting state must be suspended from the effective
23 date of default as fixed by the commission. The grounds for default include but are not limited to failure of a
24 compacting state to perform its obligations or responsibilities and any other grounds designated in the
25 commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's
26 suspension pending a cure of the default. The commission shall stipulate the conditions and the time period
27 within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the
28 time period specified by the commission, the defaulting state must be terminated from the compact and all rights,
29 privileges, and benefits conferred by this compact must be terminated from the effective date of termination.

30 (b) Product approvals by the commission or product self-certifications, or any advertisement in

1 connection with the product, that are in force on the effective date of termination remain in force in the defaulting
2 state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to subsection (1) of this
3 article.

4 (c) Reinstatement following termination of any compacting state requires a reenactment of the compact.

5 (3) Dissolution of compact.

6 (a) The compact dissolves effective upon the date of the withdrawal or default of the compacting state
7 that reduces membership in the compact to one compacting state.

8 (b) Upon the dissolution of this compact, the compact becomes null and void and is of no further force,
9 and the business and affairs of the commission must be wound up and any surplus funds must be distributed
10 in accordance with the bylaws.

11 Article XV. Severability and Construction

12 (1) The provisions of this compact are severable; and if any phrase, clause, sentence, or provision is
13 considered unenforceable, the remaining provisions of the compact are enforceable.

14 (2) The provisions of this compact must be liberally construed to effectuate its purposes.

15 Article XVI. Binding Effect of Compact and Other Laws

16 (1) Other laws.

17 (a) Nothing in this compact prevents the enforcement of any other law of a compacting state, except as
18 provided in subsection (1)(b).

19 (b) For any product approved or certified to the commission, the rules, uniform standards, and any other
20 requirements of the commission constitute the exclusive provisions applicable to the content, approval, and
21 certification of those products. For advertisement that is subject to the commission's authority, any rule, uniform
22 standard, or other requirement of the commission that governs the content of the advertisement constitutes the
23 exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding the
24 foregoing, no action taken by the commission may abrogate or restrict:

25 (i) the access of any person to state courts;

26 (ii) remedies available under state law related to breach of contract, tort, or other laws not specifically
27 directed to the content of the product;

28 (iii) state law relating to the construction of insurance contracts; or

29 (iv) the authority of the attorney general of the state, including but not limited to maintaining any actions
30 or proceedings, as authorized by law.

(c) All insurance products filed with individual states are subject to the laws of those states.

(2) Binding effect of this compact.

(a) All lawful actions of the commission, including all rules and operating procedures promulgated by the commission, are binding upon the compacting states.

(b) All agreements between the commission and the compacting states are binding in accordance with their terms.

(c) Upon the request of a party to a conflict over the meaning or interpretation of commission actions and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

(d) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission are ineffective as to that compacting state, and those obligations, duties, powers, or jurisdiction remain in the compacting state and must be exercised by the agency of the compacting state to which those obligations, duties, powers, or jurisdictions are delegated by law in effect at the time this compact becomes effective.

NEW SECTION. Section 2. Montana compact commissioner -- alternate. The commissioner of insurance provided for in 2-15-1903 or the commissioner's designated alternate shall represent this state on the interstate insurance product regulation commission.

NEW SECTION. Section 3. Implementing waiver. Article XVI, subsection (2)(d), of the Interstate Insurance Product Regulation Compact provided for in [section 1] allows a state to waive an obligation, duty, power, or jurisdiction conferred on the commission if a provision conflicts with that state's constitution. Because Article VIII, subsection (2), of the compact appears to violate Article II, section 9, of the Montana constitution, Article VIII, subsection (2), does not apply to information provided to or by this state under the compact.

NEW SECTION. Section 4. Rulemaking authority. The commissioner may adopt rules to:

(1) implement the rules and operating procedures adopted by the commission under [section 1];

(2) opt out of any uniform standard adopted by the commission provided for in [section 1];

(3) petition the commission provided for in [section 1] for a stay of the effectiveness of a uniform

1 standard adopted by the commission; and

2 (4) bring an action for violation of any provision, standard, or requirement of the compact.

3
4 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 4] are intended to be
5 codified as an integral part of Title 33, and the provisions of Title 33 apply to [sections 1 through 4].

6
7 **NEW SECTION. Section 6. Two-thirds vote required.** Because [section 1] limits governmental
8 liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each
9 house of the legislature for passage.

10
11 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

12 - END -